

HOUSE BILL 2613
By DuBois

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 35, relative to title insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 35, Part 1, is amended by adding the following language as a new section to be designated as follows:

56-35-134. (a) If a full release or satisfaction of mortgage or deed of release and reconveyance of deed of trust, that, according to its terms, recites that it secures an obligation having a stated indebtedness not greater than five hundred thousand dollars (\$500,000) exclusive of interest, or a partial release or satisfaction of mortgage or partial deed of release and reconveyance of deed of trust that, according to its terms, recites that the payment required for the partial satisfaction or release does not exceed five hundred thousand dollars (\$500,000) exclusive of interest, has not been executed and recorded pursuant to §66-25-102 within forty-five (45) days of full or partial satisfaction of the obligation secured by such mortgage or deed of trust, a title insurer may prepare, execute and record a full or partial release or satisfaction of mortgage or deed of full or partial release and reconveyance of deed of trust. No earlier than forty-five (45) days after full or partial satisfaction and at least thirty (30) days prior to the issuance and recording of any such release or satisfaction of mortgage or deed of release and reconveyance pursuant to this subsection, the title insurer shall mail by certified mail with postage prepaid, return receipt requested, to the mortgagee of record or to the trustee and beneficiary of record and their respective successors in interest of record at their last known address shown of record and to any persons who according to the records of the title insurer received payment of the obligation at the address shown in such records, a notice of its intention to release the mortgage or deed of trust accompanied by a copy

of the release or satisfaction of mortgage or deed of release and reconveyance to be recorded which shall set forth:

(1) The name of the beneficiary or mortgagee or any successors in interest of record of such mortgagee or beneficiary and, if known, the name of any servicing agent;

(2) The name of the original mortgagor or trustor;

(3) The name of the current record owner of the property and if the release or satisfaction of mortgage or deed of release and reconveyance is a partial release, the name of the current record owner of the parcel described in the partial release or satisfaction of mortgage or deed of partial release and reconveyance of deed of trust;

(4) The recording reference to the deed of trust or mortgage;

(5) The date and amount of payment, if known; and

(6) A statement that the title insurer has actual knowledge that the obligation secured by the mortgage or deed of trust has been paid in full, or if the release or satisfaction of mortgage or deed of release and reconveyance of deed of trust is a partial release, a statement that the title insurer has actual knowledge that the partial payment required for the release of the parcel described in the partial release or satisfaction has been paid.

(b) The release or satisfaction of mortgage or release and reconveyance of deed of trust may be executed by a duly appointed attorney-in-fact of the title insurer, but such delegation shall not relieve the title insurer from any liability pursuant to this section.

(c) A full or partial release or satisfaction of mortgage or deed of full or partial release and reconveyance of deed of trust issued pursuant to subsection (a) shall be entitled to recordation and, when recorded, shall constitute a full or partial release or satisfaction of mortgage or deed of release and reconveyance of deed of trust.

(d) In addition to any other remedy provided by law, a title insurer preparing or recording the release and satisfaction of mortgage or the release and reconveyance of deed of trust pursuant to subsection (a) shall be liable to any party for actual damage,

including attorney fees, which any person may sustain by reason of the issuance and recording of the release and satisfaction of mortgage or release and reconveyance of deed of trust.

(e) The title insurer shall not record a release and satisfaction of mortgage or release and reconveyance of deed of trust if, prior to the expiration of the thirty-day period specified in subsection (a) the title insurer receives a notice from the mortgagee, trustee, beneficiary, holder or servicing agent which states that the mortgage or deed of trust continues to secure an obligation, or in the case of a partial release or satisfaction of mortgage or deed of partial release and reconveyance of deed of trust, a notice that states that the partial payment required to release the parcel described in the partial release or satisfaction has not been paid.

(f) The title insurer may charge a reasonable fee to the owner of the land or other person requesting a release and satisfaction of mortgage or release and reconveyance of deed of trust for services, including but not limited to search of title, document preparation and mailing services rendered, and may in addition collect official fees.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.